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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/726,953

11/29/2000

Ricardo Guimaraes

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EXAMINER

ALI, SHUMAYA B

ART UNIT

PAPER NUMBER

3771

MAIL DATE

DELIVERY MODE

04/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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|--------------------------|--------------------------------------|---|--|
| Interview Summary | Application No. 09/726,953 | Applicant(s) GUIMARAES ET AL. | |
| | Examiner Shumaya B. Ali | Art Unit 3771 | |

All participants (applicant, applicant's representative, PTO personnel):

- (1) Shumaya B. Ali (Examiner). (3) _____
(2) David Gloekler (Applicant's Attorney). (4) _____

Date of Interview: 18 April 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____

Claim(s) discussed: 1, 8 and 12.

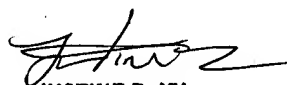
Identification of prior art discussed: Kawesch (US 6,019,754) and Knab et al. (US 3,923,482).

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

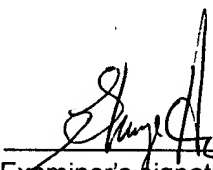
Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.


JUSTINE R. YU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

 4/18/07
Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

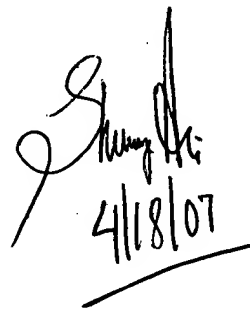
Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Following items were discussed during the phone interview:

1. Mr. Gloeker discussed the means plus functional recitation cited in line 5 of claims 1 and 8. Mr. Gloeker alleged that Kawesch US'754 fails to comply with means for directing a flow of air above the cornea of the patient from one side of the cornea to another side of the cornea as cited in lines 5 and 6 of claims 1 and 8. Examiner Ali however addressed that Kawesch US'754 only require to teach claimed "means" or equivalent means that is capable of providing the claimed function, which according the disclosure is limited to only an air flow device/module (see, fig.2, 24, and page 6 lines 18-21 of Applicant's specification). Therefore, Kawesch US'754 teaching of a dryer 200, which is also an airflow device, considered meeting claimed means plus functional recitation. Furthermore, Mr. Gloeker was directed to col.5, lines 24-37 of Kawesch US'754, where Kawesch US'754 teaches a source of compressed air can be manipulated to direct a very low flow of compressed air over the repositioned corneal flap (see col.5, lines 24-37 of Kawesch US'754), thus Kawesch US'754 further teaches an air flow device that directs air above the cornea of the patient as recited in claims 1 and 8. Thus, Examiner Ali contents that Kawesch US'754 meets claimed means plus functional recitation.
2. Mr. Gloeker further discussed that claimed invention provides a flow of air to prevent contamination and such teaching is not found in Kawesch US'754. Mr. Gloeker was suggested that such functional limitation does not define over the teachings of Kawesch US'754 specially in an apparatus claim, and furthermore because as stated above that Kawesch US'754 teaches "compressed air", by definition compressed air is dense which would provide a curtain of air flow rather than a turbulence air flow, thereby a laminar flow would inherently prevent contamination. Mr. Gloeker was further suggested to incorporate structure such as vent blade in addition to laminar airflow into the claim language to distinguish the type of airflow provided by the claimed invention from the invention disclosed in Kawesch US'754.
3. Mr. Gloeker was presented Knab US'482 where Knab teaches that surgical devices are know to provide laminar air flow to prevent containment free air (see col.2, lines 66-68, and col.3, lines 1-5 of Knab US'482. Mr. Gloeker was further directed to figure 9 of Knab US'482 to show that Knab also teaches blades (see fig.9, 92 of Knab) of Applicant's airflow module. Thus, Knab US'482 as well teaches claimed means plus functional recitation.
4. Discussion on patentable matters: Mr. Gloeker was asked to structure claim language to define over Kawesch US'754 and Knab US'482. Mr. Gloeker was suggested to incorporate structure of the airflow module (i.e. vent blade) and laminar airflow to define over the invention disclosed by Kawesch US'754 and Knab US'842. Upon addressing such claim language to claims 1 and 8, Mr. Gloeker was further suggested to incorporate "using the system of claim 1 to direct a laminar air" in claim 12. Mr. Gloeker was made aware that while the suggested claim language may define over Kawesch US'754 and Knab US'842, the patentability of claims would be determined based on reviewing forthcoming amended claims with an updated search.


4/18/07